

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MOAB INVESTMENT GROUP, LLP,

Plaintiff,

v.

CHUCK KOCH,

Defendant.

Case No. [15-cv-01790-MEJ](#)

ORDER TO SHOW CAUSE

On April 21, 2015, Defendant Chuck Koch removed this unlawful detainer action from San Mateo County Superior Court. However, an unlawful detainer action does not arise under federal law but is purely a creature of California law. *Wells Fargo Bank v. Lapeen*, 2011 WL 2194117, at *3 (N.D. Cal. June 6, 2011); *Wescom Credit Union v. Dudley*, 2010 WL 4916578, at *2 (C.D. Cal. Nov. 22, 2010). Thus, it appears that jurisdiction is lacking and the case should be remanded to state court. Accordingly, the Court ORDERS Defendant to show cause why this case should not be remanded to the San Mateo County Superior Court. Defendant shall file a declaration by May 5, 2015, and the Court shall conduct a hearing on May 21, 2015 at 10:00 a.m. in Courtroom B, 15th Floor, 450 Golden Gate Avenue, San Francisco, California. In the declaration, Defendant must address how this Court has jurisdiction over the unlawful detainer claim.

Defendant should be mindful that an anticipated federal defense or counterclaim is not sufficient to confer jurisdiction. *Franchise Tax Bd. of Cal. v. Constr. Laborers Vacation Trust*, 463 U.S. 1, 10 (1983); *Berg v. Leason*, 32 F.3d 422, 426 (9th Cir. 1994). “A case may not be removed to federal court on the basis of a federal defense, . . . even if the defense is anticipated in the plaintiff’s complaint, and even if both parties admit that the defense is the only question truly

at issue in the case.” *ARCO Envtl. Remediation, LLC v. Dep’t of Health and Envtl. Quality of the State of Montana*, 213 F.3d 1108, 1113 (9th Cir. 2000); *see also Valles v. Ivy Hill Corp.*, 410 F.3d 1071, 1075 (9th Cir. 2005) (“A federal law defense to a state-law claim does not confer jurisdiction on a federal court, even if the defense is that of federal preemption and is anticipated in the plaintiff’s complaint.”). Thus, any anticipated defense, such as a claim under the Protecting Tenants at Foreclosure Act, Pub.L. No. 111–22, § 702, 123 Stat. 1632 (2009), is not a valid ground for removal. *See e.g. Aurora Loan Serv., LLC v. Montoya*, 2011 WL 5508926, at *4 (E.D. Cal. Nov. 9, 2011); *SD Coastline LP v. Buck*, 2010 WL 4809661, at *2–3 (S.D. Cal. Nov. 19, 2010); *Wescom Credit Union v. Dudley*, 2010 WL 4916578, at 2–3 (C.D. Cal. Nov. 22, 2010); *Aurora Loan Serv., LLC v. Martinez*, 2010 WL 1266887, at * 1 (N.D. Cal. March 29, 2010).

IT IS SO ORDERED.

Dated: April 23, 2015



MARIA-ELENA JAMES
United States Magistrate Judge

United States District Court
Northern District of California

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CERTIFICATE OF SERVICE


I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on 4/23/2015, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Chuck Koch
236 Corte Madera Road
Portola Valley, CA 94028

Dated: 4/23/2015

Richard W. Wieking
Clerk, United States District Court

By: 
Chris Nathan, Deputy Clerk to the
Honorable MARIA-ELENA JAMES

United States District Court
Northern District of California